



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,866	04/10/2001	Timothy Jay Smith	9D-EC-19759	7398

7590 10/23/2006

John S. Beulick  
Armstrong Teasdale LLP  
One Metropolitan Square  
Suite 2600  
St.Louis, MO 63102

EXAMINER

JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/829,866

Applicant(s)

SMITH ET AL.

Examiner

Scott L. Jarrett

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This **Final** Office Action is in response to Applicant's submissions filed June 9, 2006 and August 22, 2006. Applicant's submissions amended claims 1-20. Currently Claims 1-20.

#### ***Response to Amendment***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the applicant did not challenge the officially noticed fact(s) cited in the previous office action(s) therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention:

- to provide a drill down capability in order to provide additional (daily, hourly, weekly, monthly, yearly, etc.) data as part of a calendar wherein such a capability enables users to efficiently and/or effectively navigate between the various "levels" of information; and

Art Unit: 3623

- to express data, specifically utilization/usage data, as a *percentage* provides a convenient and/or intuitive mechanism for illustrating/communicating the capacity of a resource (e.g. a specific delivery route is 50% reserved vs. 30 out of a possible 60 orders have been reserved).

***Claim Objections***

4. Claim 1, 10, 19 objected to because of the following informalities. Appropriate correction is required.

Regarding Claims 1, 10 and 19, Claims 1, 10 and 19 recite the limitations “calendar further *adapted to* have drill down” and “goods are *configured to* utilize the entire” (emphasis added) as claimed is merely *adapted to* have a drill-down capability or *configured to* utilize the entire delivery capacity, however the system does not actually have a drill-down capability or utilize the entire delivery capacity. For the purposes of examination examiner assumes the applicant will amend the claim to recite that method for displaying the capacity utilization of a goods delivery system actually “calendar having drill down” and “goods utilize the entire second delivery capacity.”

Art Unit: 3623

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WebVan as evidenced by at least:

- I. Borders et al., WO 00/68859 (2000), herein after reference A;
  - II. Borders et al., WO 00/68856 (2000), herein after reference B; and
  - III. Borders et al., U.S. Patent Publication No. 2001/0047285, herein after reference C (cited in office action dated September 2, 2005).
- in view of Jacobs et al., U.S. Patent Publication No. 2002/0010610.

Regarding Claims 1, 10 and 19 WebVan teaches a system and method of displaying (presenting, providing, illustrating, drawing, etc.) the capacity utilization of a goods (product, parcel, item, package, material, etc.) delivery system having a least one delivery agent location, address and delivery zone (area, region, unit, route, etc.) comprising (reference A: Pages 18-19, 37-39, 46-48; Figures 1, 3, 6, 7A-7B; reference B: Pages 18, 23-24, 29, 33-41, 46; Figure 3; reference C: Paragraphs 0034-0036, 0043, 0045-0048, 0060, 0076, 0084 0088- 0096, 0109, 0116, 0120, 0125, Figure 1, Elements 118, 128):

Art Unit: 3623

- getting (retrieving, receiving, entering, etc.) delivery agent (personnel, resource, shipper, carrier, etc.) information of a delivery agent that delivers a plurality of goods (reference A: delivery, transportation (XPS) subsystems; Page 5, lines 15-30; Number 3, Page 10; "Capacity and ATP Calculating", Page 18, Lines 1-31; Pages 37, Lines 1-30; Figure 1, Elements 110, 124, 150; reference C: Figure 1, Elements 106, 108, 112, 118);

- calculating (determining, generating, etc.) a first delivery capacity (availability, time slot, delivery time/window/appointment, itinerary, schedule, etc.) for the delivery agent (courier, truck, van, tote, container, shipper, etc.) information wherein the first delivery capacity is represented as a plurality of slots and based on *at least the* size (packing dimensions) of the good (windows; reference A: capacity database, available-to-promise, capacity profile, capacity planning, load planning; Page 5, Lines 23-30; Page 6, Lines 15-20; Page 18, Lines 1-31; Page 27, Lines 12-17; Page 37, 1-30; Page 46-47; Page 53, Lines 28-33; reference C: Paragraphs 0060, 0076, 0084, 0088-0096, 0109, 0116, 0120, 0125; Figures 6-8);

- calculating a portion of the delivery capacity used (reserved, booked, scheduled, unavailable, full, etc.) for the delivery agent information (reference A: Page 5, Lines 23-30; Page 18, Lines 1-31; Page 37, Lines 1-30; "Cust. Capacity Alloc.", Figure 1, Element 130; Figure 7A, Elements, 18, 20, 34; reference C: Paragraphs 0056-0056);

- displaying a periodic calendar format illustrating (displaying) the delivery agent information and delivery agent information (statistics, numbers, parameters, metrics,

Art Unit: 3623

values, data, etc.) for a respective zone (area, route, unit, region, etc; reference A: Page 7, Lines 9-14; Figure 12) for each day in the respective period (time slot, window, appointment, schedule, itinerary, etc.; reference A: zone window creator, delivery window estimator, delivery grid; Page 18, Lines 1-31; Page 19, Lines 1-18; Number 4, Page 44; Page 46, Lines 1-9; Page 37, Lines 1-30; Figures 7A, 7B, Elements 4, 10-20; "One function of the Transportation Subsystem is to generate a list of available delivery windows (for presentation to the customer) based upon transportation capacity data such as for example the number of couriers available, the number of delivery vehicles available, the number of orders for a particular day, truck routes, etc.", Page 18, Lines 28-31; reference C: Paragraphs 0007, 0045, 0077-0079, Figures 5, 9 and 13);

- determining whether the first delivery capacity of the delivery agent to deliver the goods during the first period is exceeded (booked, over allocated, over utilized, extended, full, etc.; reference A: delivery window estimator component, XPS, etc.; Page 18, Lines 1-31; Page 19, Lines 1-18; Page 37, Lines 1-30; Page 38, Lines 9-30; Page 39, Lines 1-13; Page 47, Lines 6-8 and 23-33; Figures 7A, 7B, Elements 10-20; "When the customer selects the counter ice cream to be added to his or her shopping cart, the Webstore Subsystem may first determine, for example, the selected item availability (e.g. available quantify for the specified delivery date), the storage temperature of the item, whether there are sufficient human resources to fulfill the item order by the specified delivery time, and whether there are sufficient transportation resources available to deliver the item by the specified time, including whether there is sufficient



Art Unit: 3623

space in the freezer section of the delivery vehicle to accommodate the ordered item on the specified delivery date.", Page 39, Lines );

- determining whether a second (another) deliver capacity of the delivery agent to deliver the goods during a second period is exceeded (reference A: Page 18, Lines 1-31; Page 19, Lines 1-18; Page 37, Lines 1-30; Page 38, Lines 9-30; Page 39, Lines 1-13; Page 47, Lines 6-8 and 23-33; Figures 7A, 7B, Elements 10-20); and

- determining to deliver the goods during the second period upon determining that the second delivery capacity is not exceeded, wherein the goods are configured to utilizing the second delivery capacity (time slot, appointment, window, etc.; reference A: Page 18, Lines 1-31; Page 19, Lines 10-18; Page 37, Lines 1-30; Page 38, Lines 9-30; Page 39, Lines 1-13; Page 47, Lines 12-16; Figures 7A, 7B, Elements 10-20; "the WebStore subsystem reserves a sufficient amount of capacity in the selected subsystems to ensure that the ordered item can be successfully fulfilled and delivered to the customer by the specified delivery date and time.", Page 39, Lines 11-13).

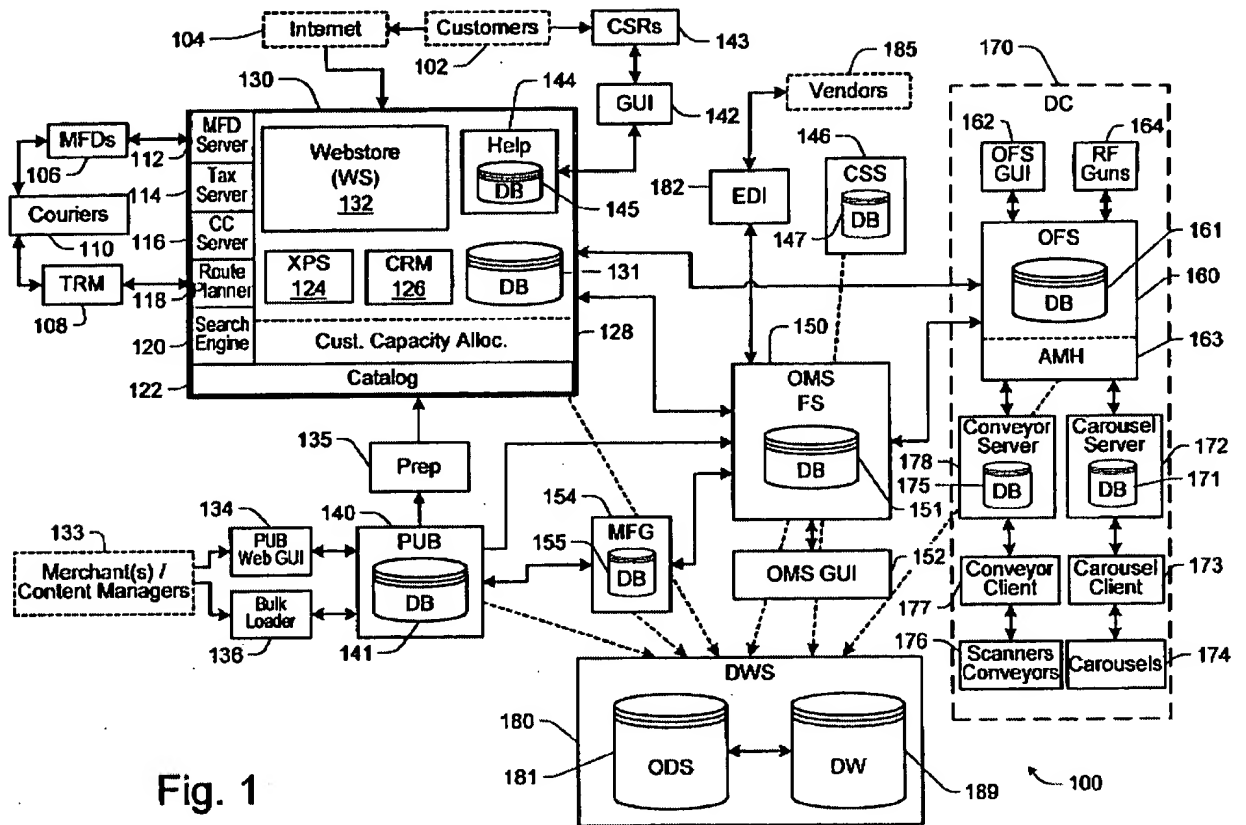


Fig. 1

Figure 1: reference A, Figure 1

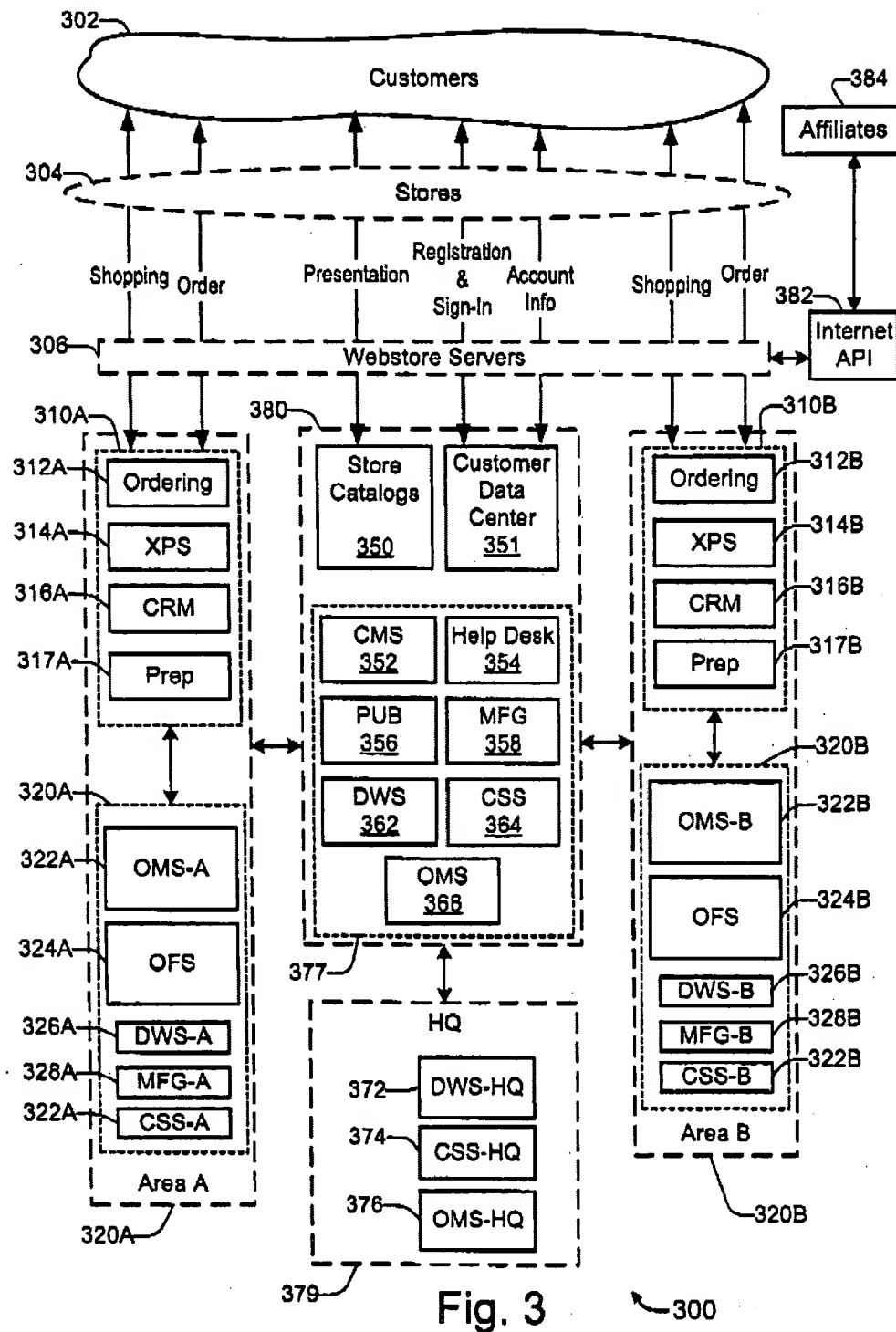
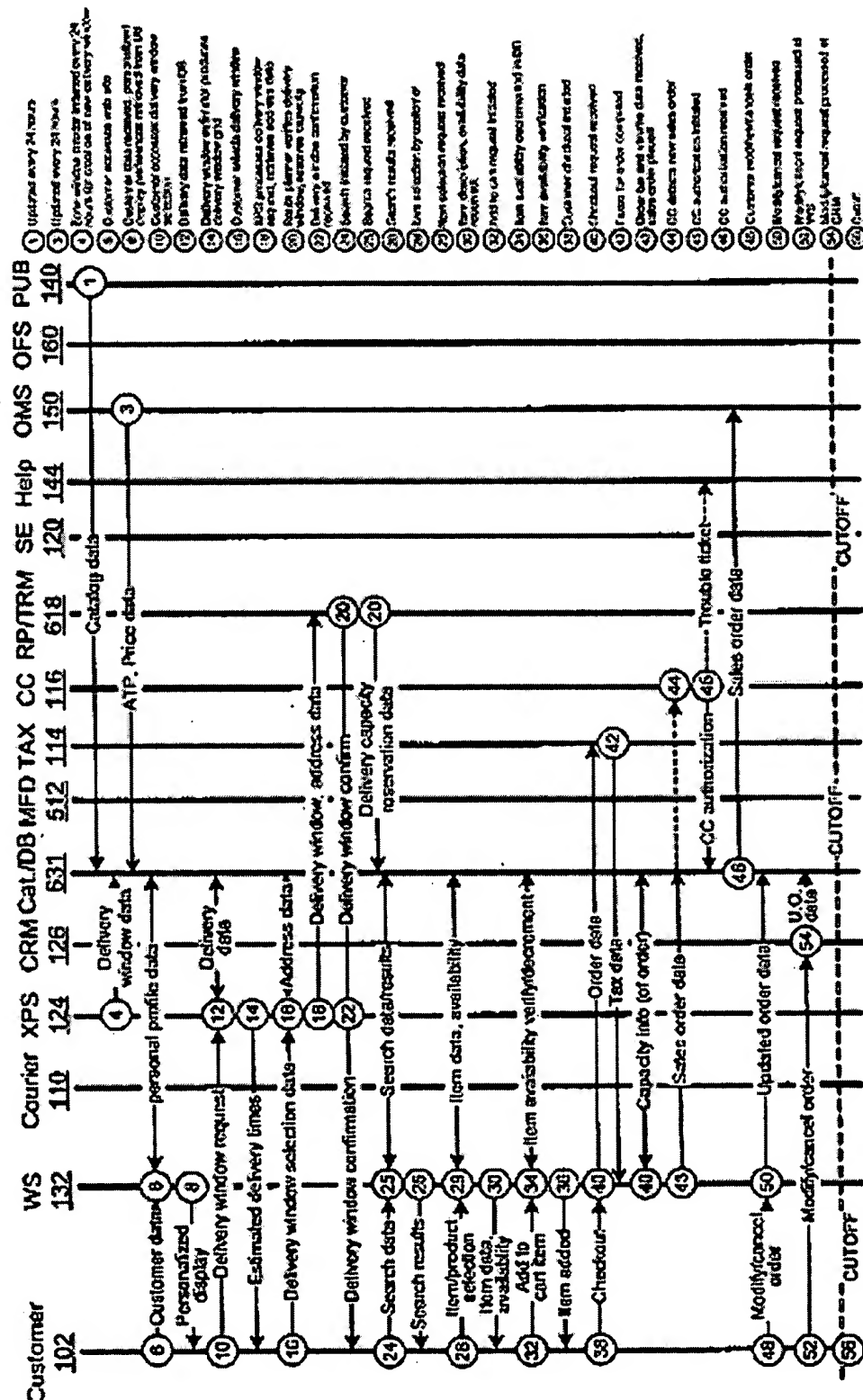
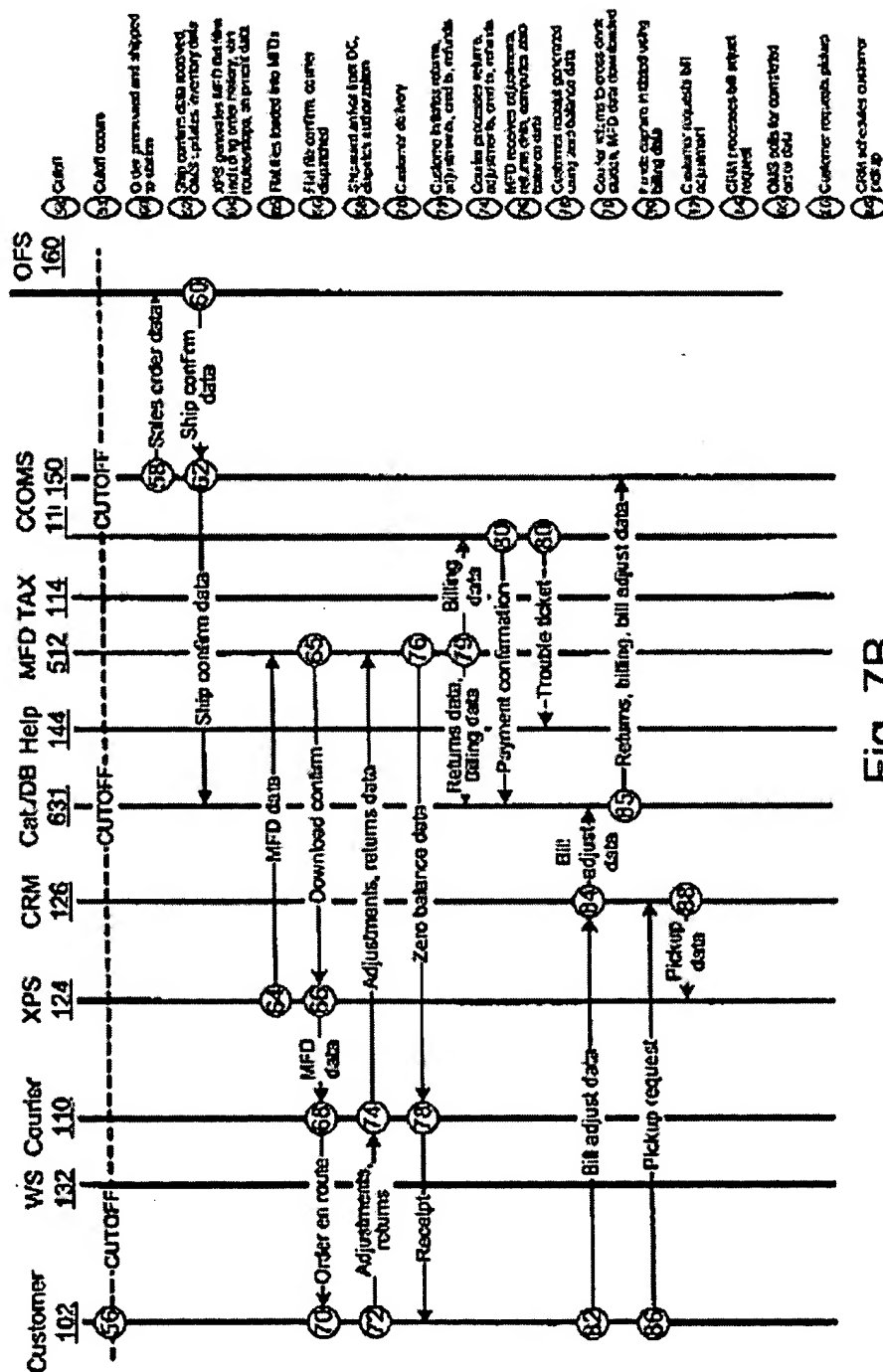


Figure 2: reference A, Figure 3



**Figure 3: reference A, Figure 7A**



**Fig. 7B**

**Figure 4: reference A, Figure 7B**

		8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	13:00	13:30	14:00
02/10/2001	Sun	X			H		X	(X)	X	X	X	X	X	
02/11/2001	Mon						H	(X)	(X)	X	X	X	X	
02/12/2001	Tue							(X)	(X)	(X)	X	H		
02/13/2001	Wed							(X)	(X)	(X)				
02/14/2001	Thu						(X)	(X)	(X)	(X)				
02/15/2001	Fri						(X)	(X)	(X)	(X)				
02/16/2001	Sat						(X)	(X)	(X)	(X)				

**FIG. 13**

Figure 5: reference C, Figure 13

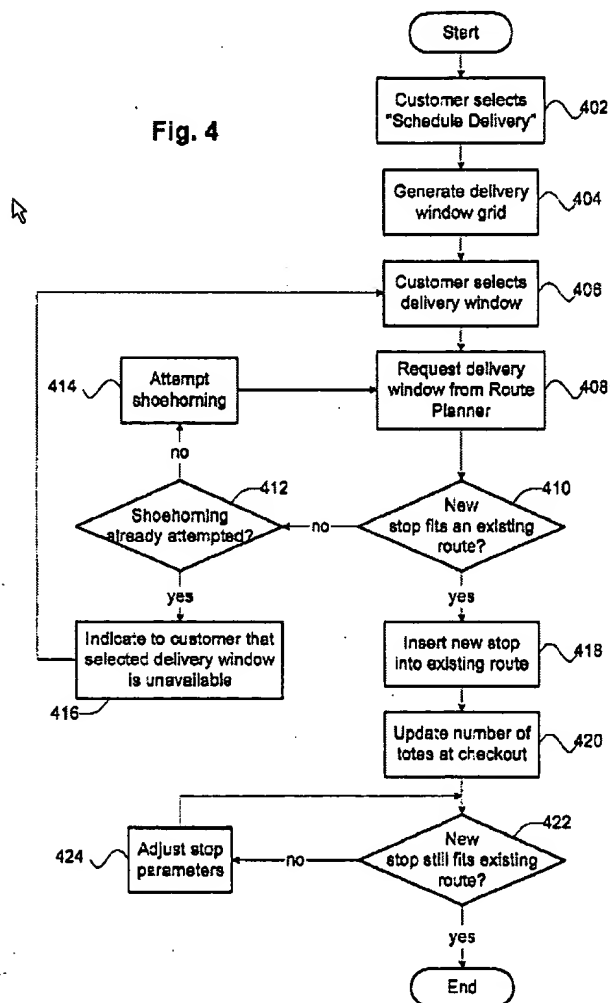


Figure 6: reference C, Figure 4

While WebVan teaches an Internet-based system and method that enables users to purchase and schedule the delivery of a plurality of goods using well known Internet/Web approaches/technologies (e.g. catalogs, search, web pages, etc.) WebVan does not expressly teach that the periodic calendar format is further adapted to have drill-down capability as claimed.

Official notice, as cited in the previous office action(s) that providing a drill down capability in order to provide additional (daily, hourly, weekly, monthly, yearly, etc.) data as part of a calendar is old and very well known wherein such a capability enables users to efficiently and/or effectively navigate between the various "levels" of information.

It would have been obvious to one skilled in the art at the time of the invention that the system and method for displaying and reserving delivery agent capacity as part of a goods delivery system as taught by WebVan would have benefited from providing a drill down capability as part of the periodic calendar display of delivery agent information (availability) in view of the teachings of official notice; the resultant system/method providing users with an effective/efficient mechanism to navigate the various levels of delivery agent information.

While WebVan teaches that the goods delivery system reserves the appropriate/necessary delivery agent capacity (vans, trucks, totes, container, goods, etc.) to ensure the fulfillment and delivery of customer orders (goods delivery) WebVan

Art Unit: 3623

does not expressly teach that second (subsequent, additional, etc. items/goods) utilize the entire second delivery capacity as claimed. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific amount of capacity utilized by second order/order items. Further, the structural elements remain the same regardless of the specific amount of capacity utilized by second order/order items. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

WebVan does not expressly teach assigning a work unit to each of the goods/services indicative of the number of slots used to delivery each good/service, the work unit based on a degree of difficulty installing the good or subsequently calculating a portion of the first delivery capacity used for the delivery agent based on the assigned work units as claimed.

Jacobs et al. teach assigning a work unit (time, sub-orders, times slots, windows, etc.) to each of the goods/services indicative of the number of slots used to delivery each good/service (Paragraphs 0005-0006; Column 14, Lines 10-45; Column 16, Lines 19-42; Figure 1), the work unit based on *at least one* of a size of the good or a degree of difficulty performing the service (i.e. type of service, skills required, equipment required,



Art Unit: 3623

work time, job duration, etc.; Paragraphs 0005-0006, 0057) and subsequently calculating a portion of the delivery capacity used for the delivery agent based on the assigned work units (resource availability; Paragraphs 0033, 0049; Appendix A; Figure 2) in an analogous art of order scheduling and displaying good/service delivery capacity (Paragraphs 0010, 0019-0020, 0055-0056; Figure 1) for the purposes of determining the time required to perform (deliver) the requested service (job duration), based on the nature of the customers request, and determined the availability (capacity) of the service delivery system to perform the requested services by providing the user with a list of available appointment windows (slots; Paragraph 0006).

It would have been obvious to one skill in the art at the time of the invention that the system and method for displaying the capacity utilization of a goods delivery system as taught by WebVan would have benefited from assigning a work unit to each of the goods/services indicative of the number of slots used to deliver and install the goods, the work unit based on *at least one* of a size of the good or a degree of difficulty installing the good and subsequently calculating a portion of the delivery capacity used for the delivery agent based on the assigned work units in view of the teachings of Jacobs et al.; the resultant system/method providing the user with a list of available appointment windows (slots) for performing the requested service wherein the capacity of the delivery system is based on the determined time required to perform (deliver) the requested service (job duration), based on the nature of the customers request (Jacobs et al.: Paragraph 0006).

While Jacobs et al. teaches the well known scheduling of appointments based on a plurality of service specific factors such as job/work time/duration, skills, equipment, order complexity and the like neither WebVan nor Jacobs et al. expressly assigning a work unit to a good based on the *degree of difficulty in installing* the good as claimed.

Official notice is taken that it is old and well known that goods, for example major appliances, require delivery and installation wherein not all major appliances are the same size nor require the same installation procedures (time, complexity, skills, equipment, etc.).

Major appliances are one example of goods that vary widely in size, weight, installation complexity (steps, tools, skills, location, etc) wherein even the same appliance may have different installation requirements; for example one customer wants the appliance installed on the second floor or in the basement requiring the traversal of one or more flights of stairs while another customer may need their old appliance hauled away or installing a microwave could be as simple as placing it on a countertop or as complex as requiring outside venting as part of a range top; each major appliance delivery and installation typically requires different skills, work/job time, equipment or the like.

Art Unit: 3623

It would have been obvious to one skilled in the art at the time of the invention that the system and method for goods delivery management as taught by the combination of WebVan and Jacobs et al. with its ability to schedule delivery capacity based on the type of goods being delivered (e.g. base on job type, duration, skill, equipment, etc.) would have been utilized to account for the well known differences in delivering and installing the ordered goods, including but not limited to installation difficulty/complexity, in view of the teachings of official notice; the resultant system/method enabling businesses (service organization) to more schedule the delivery capacity more effectively and/or accurately (Jacobs et al.: Paragraphs 0004-0005).

Regarding Claims 2, 11 and 20 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system wherein the delivery agent information (data, numbers, statistics, values, etc.) is at least one of the following (selected from the group consisting of): delivery capacity, reserved capacity or deliveries (reference A: number of trucks/vans, couriers, totes, routes, orders, etc.; Page 37, 1-30; Page 37, Lines 5-8; Page 38, Lines 8-17; Page 42, Lines 11-14; "the Webstore subsystem reserves a sufficient amount of capacity in the selected subsystems to ensure that the ordered item can be successfully fulfilled and delivered to the customer by the specified delivery date and time.", Page 39, Lines 11-13; "a schedule listing delivery times specific to that subzone can be shown...If additional trucks or vans are available at a particular time, that will be reflected in the displayed

scheduled.”, Page 18, Lines 18-24; “Webstore may then display the reserved and available delivery windows to the customer.”, Page 19, Lines 5-6; reference C: Paragraphs 0078-0080, 0084, 0088, 0091).

Regarding Claims 3 and 12 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system further comprising calculating the deliveries scheduled for the delivery agent information (reference A: route planner/planning, delivery vehicle routing, delivery, transportation, mobile filed device and dispatch subsystems, Descartes; Number 3, Page 10; Page 18, Lines 1-31; Figure 1, Elements 108, 118; reference B: route planning, Pages 37-38; load planning, Page 46; reference C: Paragraphs 0028, 0034, 0045-0048, 0060; Figures 1, 3, 4-5).

Regarding Claims 4 and 13 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system further comprising calculating the capacity utilization per day for the delivery agent information (reference A: capacity profile, capacity and ATP calculations, Page 18, Lines 28-31; Page 37, Lines 1-31; Page 38, Lines 1-13; Page 39, Lines 1-13; reference B: “the distribution center 120 is associated with a distribution capacity (measured as an amount of distribution resources available) for processing orders in a given time frame.”, Page 23, Lines 1-3).

WebVan does not expressly teach expressly the delivery agent capacity per day as a **percentage** as claimed.

Official notice is taken that expressing data, specifically utilization/usage data, as a *percentage* is old and very well known and provides a convenient and/or intuitive mechanism for illustrating/communicating the capacity of a resource (e.g. a specific delivery route is 50% reserved vs. 30 out of a possible 60 orders have been reserved). Accordingly it would have been obvious to one skilled in the art at the time of the invention that the system and method for displaying capacity utilization of a goods delivery system as taught by WebVan would have benefited from using any of a plurality of numerical, mathematical and/or statistical formats to display (present, illustrate, present, convey) the plurality of delivery agent utilization/usage data, including displaying the capacity utilization of a delivery agent as a percentage in view of the teachings of official notice.

Further it is noted that the type of mathematical or other known statistical format that is used to convey/illustrate the capacity utilization of a resource (delivery agent) merely represents non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific format used to convey/illustrate the capacity utilization of a resource. Further, the structural elements remain the same regardless of the specific format used to convey/illustrate the capacity utilization of a resource. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381,

1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claims 5 and 14 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system further comprising marking out (not indicating, not displaying, not highlighting, not showing, etc.) out of capacity (unavailable, booked, scheduled, capacity exceeded, out-of-stock, reserved, "x-ing out", etc.) conditions (reference A: Page 19, Lines 1-17; Page 37, Lines 11-31; Figure 7A, Elements 10-20; reference C: Figure 13).

Regarding Claims 6 and 15 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system wherein the delivery agent information is at least one of the following (selected from the group consisting of): delivery agent location, delivery agent name, delivery agent code, delivery management system schedule name or delivery agent zone group name (tote license ID, mobile filed device, route/zone name/number, etc.; reference A: Page 20, Lines 9-30; Page 34, Lines 10-13; Page 46, 18-23; Figure 12; reference C: Paragraphs 0034-0036, 0043, 0045-0048, 0050, 0056-0065).

Regarding Claims 7-8 and 16-17 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system further comprising displaying any desired timeframe of delivery agent information (data, numbers, values,

Art Unit: 3623

statistics, etc.) on a periodic calendar basis (delivery window grid, daily, monthly, etc.; reference B: "a grid is shown of available delivery times. The grid can start with the earliest possible delivery relative to the current cutoff time and show the next few days.", Page 33, Lines 23-25; "In this example, only a few days worth of delivery times are shown. This can be adjusted based on the particular system and customer preferences.", Page 34, Lines 10-12).

Further it is noted that the specific time frame used to display the delivery agent information merely represents non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific time frame used to display the delivery agent information. Further, the structural elements remain the same regardless of the specific time frame used to display the delivery agent information. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claims 9 and 18 WebVan teaches a method and system of displaying the capacity utilization of a goods delivery system wherein the delivery agent statistic (data, information, metrics, values, parameters, etc.) is at least one of the following (selected from the group consisting of): default capacity, override capacity, capacity

Art Unit: 3623

usage or percent capacity usage (reference A: available/reserved space, vehicle usage, number of orders/day, number of vehicles/day, number of couriers, available, etc.; Page 18, Lines 9 and 29-31; Page 37, Lines 4-30; Page 38, Lines 9-10; Page 39, Lines 1-13; reference C: Paragraphs 0056-0065, 0076 0084, 0086).

Further it is noted that "default" and "override" are arbitrary labels applied to delivery agent utilization/usage data and as such represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific labels used. Further, the structural elements remain the same regardless of the specific labels used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Cummings et al., U.S. Patent No. 6,345,260, teach a system and method for scheduling appointments comprising displaying the capacity of a goods/services delivery system in a periodic calendar appointment comprising a plurality of slots wherein the duration of the appointments is determined based a plurality of business rules (e.g. the type of services rendered).

- Kantarjiev et al., U.S. Patent No. 6,975,937, teach a goods delivery system and method comprising displaying a list of available delivery windows (slots) based on delivery agent and vehicle capacity, determining the appropriate capacity (number of totes) for a goods delivery (order) as well as taking into account service durations when scheduling goods delivery slots.

- Jacobs et al., U.S. Patent Publication No. 2001/0037229, teach a system and method for scheduling delivery agents (e.g. technicians) in delivery goods/services, including installation services, wherein the system/method assigns work units (work time, skills, equipment required, job duration, travel time, etc.) to appointments (orders, reservations, time slots) based on the service to be performed for the purposes of enabling the business (service organization) better understand its capacity to service its customers.

- Jacobs, Simon, U.S. Patent Publication No. 2002/0010615, teach a goods/services delivery system and method comprising: getting delivery agent information from a plurality of delivery agents that deliver services, calculating a delivery capacity based on the information, assigning a work unit (e.g. time, job duration) based on the complexity (difficulty, skill, equipment, time required, sub-orders, etc.) and indicative of the number of windows (sub-orders, slots) necessary to deliver the service.

- Jacobs et al., U.S. Patent Publication No. 2002/0016645, teach a goods/service delivery system and method for scheduling the delivery of a plurality of services comprising: providing a list of available slots (windows, reservations, capacity) for delivery of the services wherein the service delivery (order, reservation,

Art Unit: 3623

appointment) takes into account a plurality of factors including but not limited to job duration, work time, travel time, delivery agent capacity (availability, skills, location, etc.) and the like.

- Ciccolella, Cathy, GE to offer online dealer support with CustomerNet (1997), teaches the public use of a goods delivery system and method for scheduling the delivery of goods wherein users are provided delivery schedules and availability information.

- Brumback, Nancy, Sears Plans Big Push in Home Goods (1999), teaches a goods delivery system and method wherein users can purchase and schedule delivery and installation of appliances by service personnel over the Internet.

- Hanover, Dan, Up next for Sears (1999), teaches an online goods delivery system and method for purchasing appliances and scheduling their delivery and installation.

- Wolf, Alan, Wal-Mart Enters Majap Market with GE Appliance Pilot Program (1999), teaches a goods delivery system and method wherein users order appliances via kiosks that providing inventory information and enable users to schedule delivery and installation of the ordered goods.

- Wolf, Alan, GE's Johnston (2000), teaches a goods delivery system and method (GEAppliances.com, BuildNet, CustomerNet, ServiceNet) which enables users to order goods for delivery and installation (e.g. appliances) as well as repairs wherein users are provided delivery appointment windows/slots.


Art Unit: 3623


- Lowe's Selling White Goods Over Relaunched Website (2000), teaches an online goods delivery system and method wherein users can order appliances as well as schedule the delivery and installation of the new appliances and haul away of the old appliances.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJ   
10/19/2006

  
Dominic Jeanty  
Primary Examiner  
Art Unit 3623